

**Introduced by Senator Alarcon**

February 22, 2005

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An act to amend Section 11734 and 11736 of the Insurance Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 639, as introduced, Alarcon. Workers' compensation: experience rating: occupational classifications.

Existing law generally regulates workers' compensation insurance. Existing law requires every workers' compensation insurer to adhere to a uniform experience rating plan filed with the Insurance Commissioner. Existing law requires each insurer to use a classification system developed by the commissioner and his or her designated rating organization, or a system developed by the insurer.

This bill would require that a classification system developed by the commissioner, a rating organization, or an insurer take account of the numbers of employees in specifically defined occupational categories, and would prohibit such a classification system from classifying an employer based solely on the industry in which the employer is involved.

Existing law requires that an experience rating plan contain reasonable eligibility standards, provide adequate incentives for loss prevention, and provide for sufficient premium differentials so as to encourage safety.

This bill would require that the primary component of an experience rating plan be the number of claims filed by an employer relative to the average number of claims filed by comparable businesses, and would prohibit the amount of reserves that an insurer is required to maintain for an employer from being used as a component of an experience rating plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11734 of the Insurance Code is  
2 amended to read:

3 11734. (a) Every workers' compensation insurer shall adhere  
4 to a uniform experience rating plan filed with the commissioner  
5 by a rating organization designated by the commissioner and  
6 subject to his or her disapproval.

7 (b) (1) The commissioner shall designate a rating organization  
8 to assist him or her in gathering, compiling, and reporting  
9 relevant statistical information, and to develop a classification  
10 system. An insurer may develop its own classification system  
11 upon which a rate may be made or adopt the classification system  
12 developed by the designated rating organization; provided,  
13 however, that any classification system developed by an insurer  
14 must be filed with the commissioner 30 days prior to its use. The  
15 commissioner shall disapprove a classification system filed by an  
16 insurer pursuant to this section if the insurer fails to demonstrate  
17 that the data thereby produced can be reported consistent with the  
18 uniform statistical plan or the classification system developed by  
19 the rating organization. Every workers' compensation insurer  
20 shall record and report its workers' compensation experience to  
21 the designated rating organization as set forth in the uniform  
22 statistical plan approved by the commissioner.

23 (2) *A classification system developed by the commissioner, a*  
24 *rating organization, or an insurer shall take account of the*  
25 *numbers of employees in specifically defined occupational*  
26 *categories. Such a classification system shall not classify an*  
27 *employer based solely on the industry in which the employer is*  
28 *involved.*

29 (c) The designated rating organization shall develop and file  
30 manual rules, subject to the approval of the commissioner,  
31 reasonably related to the recording and reporting of data pursuant  
32 to the uniform statistical plan, uniform experience rating plan,  
33 and any classification systems that may be in effect. Every  
34 workers' compensation insurer shall adhere to the approved  
35 manual rules and experience rating plan in writing and reporting

1 its business. No insurer shall agree with any other insurer or with  
2 a rating organization to adhere to manual rules that are not  
3 reasonably related to the recording and reporting of data pursuant  
4 to the uniform statistical plan or classification system developed  
5 by the rating organization.

6 (d) The designated rating organization shall also develop and  
7 file with the commissioner a weekly premium per employee for  
8 each classification used or proposed for use by that organization.  
9 The weekly premium shall be developed by applying the  
10 proposed rate for each classification to the state average weekly  
11 wage. For the purpose of this section, “state average weekly  
12 wage” means the average weekly wage paid by employers to  
13 employees covered by unemployment insurance as reported by  
14 the United States Department of Labor for California for the 12  
15 months ending March 31 of the calendar year preceding the year  
16 in which the injury occurred.

17 SEC. 2. Section 11736 of the Insurance Code is amended to  
18 read:

19 11736. (a) An experience rating plan shall contain reasonable  
20 eligibility standards, provide adequate incentives for loss  
21 prevention, and ~~shall~~ provide for sufficient premium differentials  
22 so as to encourage safety.

23 (b) *The primary component of an experience rating plan shall*  
24 *be the number of claims filed by an employer relative to the*  
25 *average number of claims filed by comparable businesses. The*  
26 *amount of reserves that an insurer is required to maintain for an*  
27 *employer shall not be used as a component of an experience*  
28 *rating plan.*